

Introduced by Senator Hollingsworth

December 8, 2004

An act to amend Sections 17041 and 19602 of, to add Section 17063.1 to, to repeal Sections 17043 and 19602.5 of, and to repeal Chapter 2.1 (commencing with Section 17062) of Part 10 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 26, as introduced, Hollingsworth. Personal income taxes.

The Personal Income Tax Law imposes a tax upon taxable income at various rates depending upon the amount of that income, and also imposes an alternative minimum tax based upon specified tax preference items.

This bill would, commencing with taxable years beginning on or after January 1, 2003, reduce all marginal tax rates, as provided, and would eliminate the tax on taxable income and the alternative minimum tax for taxable years beginning on or after January 1, 2007.

The Mental Health Services Act, enacted by initiative statute, establishes a state personal income tax surcharge of 1% on taxpayers with annual taxable incomes of more than \$1 million and uses the funds derived therefrom for expanding county mental health programs, as specified.

This bill would repeal that 1% surcharge along with associated provisions specifying the allocation of those revenues. This bill would provide that these repeal provisions would become operative only when submitted to, and approved by, the voters.

This bill would take effect immediately as a tax levy, except as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 17041 of the Revenue and Taxation Code is amended to read:

17041. (a) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state ~~who is not a part-year resident~~, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income ~~computed for the taxable year as if the resident were a resident of this state for the entire taxable year and for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions:~~

If the taxable income is:	The tax is:
Not over \$3,650.....	1% of the taxable income
Over \$3,650 but not over \$8,650.....	\$36.50 plus 2% of the excess over \$3,650
Over \$8,650 but not over \$13,650.....	\$136.50 plus 4% of the excess over \$8,650
Over \$13,650 but not over \$18,950.....	\$336.50 plus 6% of the excess over \$13,650
Over \$18,950 but not over \$23,950.....	\$654.50 plus 8% of the excess over \$18,950
Over \$23,950.....	\$1,054.50 plus 9.3% of the excess over \$23,950

(b) ~~(1)~~ There shall be imposed for each taxable year upon the taxable income of every nonresident or part-year resident, except the head of a household as defined in Section 17042, a tax ~~as calculated in paragraph (2):~~

~~(2) The tax imposed under paragraph (1) shall be calculated by multiplying the "taxable income of a nonresident or part-year resident," as defined in subdivision (i), by a rate (expressed as a percentage) equal to the tax computed under subdivision (a) on the entire taxable income of the nonresident or part-year resident~~

1 as if the nonresident or part-year resident were a resident of this
2 state for the taxable year and as if the nonresident or part-year
3 resident were a resident of this state for all prior taxable years for
4 any carryover items, deferred income, suspended losses, or
5 suspended deductions, divided by the amount of that income.

6 (e) ~~There shall be imposed for each taxable year upon the~~
7 ~~entire taxable income of every resident of this state who is not a~~
8 ~~part-year resident for that taxable year, when the resident is the~~
9 ~~head of a household, as defined in Section 17042, taxes in the~~
10 ~~following amounts and at the following rates upon the amount of~~
11 ~~taxable income computed for the taxable year as if the resident~~
12 ~~were a resident of the state for the entire taxable year and for all~~
13 ~~prior taxable years for carryover items, deferred income,~~
14 ~~suspended losses, or suspended deductions: that shall be equal to~~
15 ~~the tax computed under subdivision (a) as if the nonresident or~~
16 ~~part-year resident were a resident multiplied by the ratio of~~
17 ~~California adjusted gross income to total adjusted gross income~~
18 ~~from all sources. For purposes of computing the tax under~~
19 ~~subdivision (a) and gross income from all sources, the net~~
20 ~~operating loss deduction provided in Section 172 of the Internal~~
21 ~~Revenue Code, as modified by Section 17276, shall be computed~~
22 ~~as if the taxpayer was a resident for all prior years.~~

23 (c) *There shall be imposed for each taxable year upon the*
24 *entire taxable income of every resident of this state, when the*
25 *resident is the head of household, as defined in Section 17042,*
26 *taxes in the following amounts and at the following rates upon*
27 *the amount of taxable income:*

1	If the taxable income is:	The tax is:
2	Not over \$7,300.....	1% of the taxable income
3	Over \$7,300 but not	
4	over \$17,300.....	\$73 plus 2% of the excess
5		over \$7,300
6	Over \$17,300 but not	
7	over \$22,300.....	\$273 plus 4% of the excess
8		over \$17,300
9	Over \$22,300 but not	
10	over \$27,600.....	\$473 plus 6% of the excess
11		over \$22,300
12	Over \$27,600 but not	
13	over \$32,600.....	\$791 plus 8% of the excess
14		over \$27,600
15	Over \$32,600.....	\$1,191 plus 9.3% of the excess
16		over \$32,600

17
 18 (d) ~~(1)~~—There shall be imposed for each taxable year upon the
 19 taxable income of every nonresident or part-year resident when
 20 the nonresident or part-year resident is the head of a household,
 21 as defined in Section 17042, a tax as calculated in paragraph (2).

22 ~~(2) The tax imposed under paragraph (1) shall be calculated by~~
 23 ~~multiplying the “taxable income of a nonresident or part-year~~
 24 ~~resident,” as defined in subdivision (i), by a rate (expressed as a~~
 25 ~~percentage) equal to the tax computed under subdivision (c) on~~
 26 ~~the entire taxable income of the nonresident or part-year resident~~
 27 ~~as if the nonresident or part-year resident were a resident of this~~
 28 ~~state for the taxable year and as if the nonresident or part-year~~
 29 ~~resident were a resident of this state for all prior taxable years for~~
 30 ~~any carryover items, deferred income, suspended losses, or~~
 31 ~~suspended deductions, divided by the amount of that income that~~
 32 ~~shall be equal to the tax computed under subdivision (c) as if the~~
 33 ~~nonresident or part-year resident were a resident multiplied by~~
 34 ~~the ratio of California adjusted gross income to total adjusted~~
 35 ~~gross income from all sources. For purposes of computing the~~
 36 ~~tax under subdivision (c) and gross income from all sources, the~~
 37 ~~net operating loss deduction provided in Section 172 of the~~
 38 ~~Internal Revenue Code, as modified by Section 17276, shall be~~
 39 ~~computed as if the taxpayer was a resident for all prior years.~~

1 (e) There shall be imposed for each taxable year upon the
2 taxable income of every estate, trust, or common trust fund taxes
3 equal to the amount computed under subdivision (a) for an
4 individual having the same amount of taxable income.

5 (f) The tax imposed by this part is not a surtax.

6 (g) (1) Section 1(g) of the Internal Revenue Code, relating to
7 certain unearned income of minor children taxed as if the
8 parent's income, shall apply, except as otherwise provided.

9 (2) Section 1(g)(7)(B)(ii)(II) of the Internal Revenue Code,
10 relating to income included on parent's return, is modified, for
11 purposes of this part, by substituting "1 percent" for "15
12 percent."

13 (h) For each taxable year beginning on or after January 1,
14 1988, the Franchise Tax Board shall recompute the income tax
15 brackets prescribed in subdivisions (a) and (c). That computation
16 shall be made as follows:

17 (1) The California Department of Industrial Relations shall
18 transmit annually to the Franchise Tax Board the percentage
19 change in the California Consumer Price Index for all items from
20 June of the prior calendar year to June of the current calendar
21 year, no later than August 1 of the current calendar year.

22 (2) The Franchise Tax Board shall do both of the following:

23 (A) Compute an inflation adjustment factor by adding 100
24 percent to the percentage change figure that is furnished pursuant
25 to paragraph (1) and dividing the result by 100.

26 (B) Multiply the preceding taxable year income tax brackets
27 by the inflation adjustment factor determined in subparagraph
28 (A) and round off the resulting products to the nearest one dollar
29 (\$1).

30 (i) *The income tax rates prescribed in subdivisions (a) and (c)*
31 *shall be modified as follows:*

32 (1) *For any taxable year beginning on or after January 1,*
33 *2005, and before January 1, 2006, 1 percent shall be 0.80*
34 *percent, 2 percent shall be 1.6 percent, 4 percent shall be 3.2*
35 *percent, 6 percent shall be 4.8 percent, 8 percent shall be 6.4*
36 *percent, and 9.3 percent shall be 7.54 percent.*

37 (2) *For any taxable year beginning on or after January 1,*
38 *2006, and before January 1, 2007, 1 percent shall be 0.60*
39 *percent, 2 percent shall be 1.2 percent, 4 percent shall be 2.4*

1 percent, 6 percent shall be 3.6 percent, 8 percent shall be 4.8 percent, and 9.3 percent shall be 5.58 percent.

3 (3) For any taxable year beginning on or after January 1, 4 2007, and before January 1, 2008, 1 percent shall be 0.40 5 percent, 2 percent shall be 0.80 percent, 4 percent shall be 1.6 6 percent, 6 percent shall be 2.4 percent, 8 percent shall be 3.2 7 percent, and 9.3 percent shall be 3.72 percent.

8 (4) For any taxable year beginning on or after January 1, 9 2008, and before January 1, 2009, 1 percent shall be 0.20 10 percent, 2 percent shall be 0.40 percent, 4 percent shall be 0.80 11 percent, 6 percent shall be 1.2 percent, 8 percent shall be 1.6 12 percent, and 9.3 percent shall be 1.86 percent.

13 (5) For any taxable year beginning on or after January 1, 14 2009, 1 percent shall be 0 percent, 2 percent shall be 0 percent, 15 4 percent shall be 0 percent, 6 percent shall be 0 percent, 8 16 percent shall be 0 percent, and 9.3 percent shall be 0 percent.

17 (j) (1) For purposes of this part, the term “taxable income of a 18 ~~nonresident or part-year resident~~” section, the term “California 19 adjusted gross income” includes each of the following:

20 (A) For any part of the taxable year during which the taxpayer 21 was a resident of this state (as defined by Section 17014), all 22 items of gross income ~~and all deductions~~, regardless of source.

23 (B) For any part of the taxable year during which the taxpayer 24 was not a resident of this state, gross income ~~and deductions~~ 25 derived from sources within this state, determined in accordance 26 with ~~Article 9 of Chapter 3 (commencing with Section 17301 and~~ 27 ~~Chapter 11 (commencing with Section 17951).~~

28 (2) For purposes of computing ~~taxable~~ “California adjusted 29 gross income of a nonresident or part-year resident” under 30 paragraph (1), the amount of any net operating loss sustained in 31 any taxable year during any part of which the taxpayer was not a 32 resident of this state shall be limited to the sum of the following:

33 (A) The amount of the loss attributable to the part of the 34 taxable year in which the taxpayer was a resident.

35 (B) The amount of the loss which, during the part of the 36 taxable year the taxpayer is not a resident, is attributable to 37 California source income and deductions allowable in arriving at 38 ~~taxable income of a nonresident or part-year resident.~~

39 ~~(3) For purposes of computing “taxable income of a~~ 40 ~~nonresident or part-year resident” under paragraph (1), any~~

1 ~~carryover items, deferred income, suspended losses, or~~
2 ~~suspended deductions shall only be includable or allowable to the~~
3 ~~extent that the carryover item, deferred income, suspended loss,~~
4 ~~or suspended deduction was derived from sources within this~~
5 ~~state, calculated as if the nonresident or part-year resident, for the~~
6 ~~portion of the year he or she was a nonresident, had been a~~
7 ~~nonresident for all prior years~~ *adjusted gross income.*

8 SEC. 2. Section 17043 of the Revenue and Taxation Code is
9 repealed.

10 ~~17043. (a) For each taxable year beginning on or after January~~
11 ~~1, 2005, in addition to any other taxes imposed by this part, an~~
12 ~~additional tax shall be imposed at the rate of 1 percent on that~~
13 ~~portion of a taxpayer's taxable income in excess of one million~~
14 ~~dollars (\$1,000,000).~~

15 ~~(b) For purposes of applying Part 10.2 (commencing with~~
16 ~~Section 18401) of Division 2, the tax imposed under this section~~
17 ~~shall be treated as if imposed under Section 17041.~~

18 ~~(c) The following shall not apply to the tax imposed by this~~
19 ~~section:~~

20 ~~(1) The provisions of Section 17039, relating to the allowancee~~
21 ~~of credits.~~

22 ~~(2) The provisions of Section 17041, relating to filing status~~
23 ~~and recomputation of the income tax brackets.~~

24 ~~(3) The provisions of Section 17045, relating to joint returns.~~

25 SEC. 3. Section 17063.1 is added to the Revenue and
26 Taxation Code, to read:

27 17063.1. This chapter shall remain in effect only until
28 January 1, 2009, and as of that date is repealed.

29 SEC. 4. Section 19602 of the Revenue and Taxation Code is
30 amended to read:

31 19602. Except for amounts collected or accrued under Sections
32 17935, 17941, 17948, 19532, and 19561, ~~and revenues deposited~~
33 ~~pursuant to Section 19602.5~~, all moneys and remittances received
34 by the Franchise Tax Board as amounts imposed under Part 10
35 (commencing with Section 17001), and related penalties,
36 additions to tax, and interest imposed under this part, shall be
37 deposited, after clearance of remittances, in the State Treasury
38 and credited to the Personal Income Tax Fund.

39 SEC. 5. Section 19602.5 of the Revenue and Taxation Code
40 is repealed.

~~19602.5. (a) There is in the State Treasury the Mental Health Services Fund (MHS Fund). The estimated revenue from the additional tax imposed under Section 17043 for the applicable fiscal year, as determined under subparagraph (B) of paragraph (3) of subdivision (e), shall be deposited to the MHS Fund on a monthly basis, subject to an annual adjustment as described in this section.~~

~~(b) (1) Beginning with fiscal year 2004-2005 and for each fiscal year thereafter, the Controller shall deposit on a monthly basis in the MHS Fund an amount equal to the applicable percentage of net personal income tax receipts as defined in paragraph (4).~~

~~(2) (A) Except as provided in subparagraph (B), the applicable percentage referred to in paragraph (1) shall be 1.76 percent.~~

~~(B) For fiscal year 2004-2005, the applicable percentage shall be 0.70 percent.~~

~~(3) Beginning with fiscal year 2006-2007, monthly deposits to the MHS Fund pursuant to this subdivision are subject to suspension pursuant to subdivision (f).~~

~~(4) For purposes of this subdivision, "net personal income tax receipts" refers to amounts received by the Franchise Tax Board and the Employment Development Department under the Personal Income Tax Law, as reported by the Franchise Tax Board to the Department of Finance pursuant to law, regulation, procedure, and practice (commonly referred to as the "102 Report") in effect on the effective date of the act establishing this section.~~

~~(e) No later than March 1, 2006, and each March 1 thereafter, the Department of Finance, in consultation with the Franchise Tax Board, shall determine the annual adjustment amount for the following fiscal year.~~

~~(1) The "annual adjustment amount" for any fiscal year shall be an amount equal to the amount determined by subtracting the "revenue adjustment amount" for the applicable revenue adjustment fiscal year, as determined by the Franchise Tax Board under paragraph (3), from the "tax liability adjustment amount" for applicable tax liability adjustment tax year, as determined by the Franchise Tax Board under paragraph (2).~~

~~(2) (A) (i) The “tax liability adjustment amount” for a tax year is equal to the amount determined by subtracting the estimated tax liability increase from the additional tax imposed under Section 17043 for the applicable year under subparagraph (B) from the amount of the actual tax liability increase from the additional tax imposed under Section 17043 for the applicable tax year, based on the returns filed for that tax year.~~

~~(ii) For purposes of the determinations required under this paragraph, actual tax liability increase from the additional tax means the increase in tax liability resulting from the tax of 1 percent imposed under Section 17043, as reflected on the original returns filed by October 15 of the year after the close of the applicable tax year.~~

~~(iii) The applicable tax year referred to in this paragraph means the 12-calendar month taxable year beginning on January 1 of the year that is two years before the beginning of the fiscal year for which an annual adjustment amount is calculated.~~

~~(B) (i) The estimated tax liability increase from the additional tax for the following tax years is:~~

Tax Year	Estimated Tax Liability Increase from the Additional Tax
2005	\$634 million
2006	\$672 million
2007	\$713 million
2008	\$758 million

~~(ii) The “estimated tax liability increase from the additional tax” for the tax year beginning in 2009 and each tax year thereafter shall be determined by applying an annual growth rate of 7 percent to the “estimated tax liability increase from additional tax” of the immediately preceding tax year.~~

~~(3) (A) The “revenue adjustment amount” is equal to the amount determined by subtracting the “estimated revenue from the additional tax” for the applicable fiscal year, as determined under subparagraph (B), from the actual amount transferred for the applicable fiscal year.~~

~~(B) (i) The “estimated revenue from the additional tax” for the following applicable fiscal years is:~~

1		Estimated Revenue from
2	Applicable Fiscal Year	Additional Tax
3	2004-05	\$254 million
4	2005-06	\$683 million
5	2006-07	\$690 million
6	2007-08	\$733 million

7
 8 ~~(ii) The “estimated revenue from the additional tax” for~~
 9 ~~applicable fiscal year 2007-08 and each applicable fiscal year~~
 10 ~~thereafter shall be determined by applying an annual growth rate~~
 11 ~~of 7 percent to the “estimated revenue from the additional tax” of~~
 12 ~~the immediately preceding applicable fiscal year.~~

13 ~~(iii) The applicable fiscal year referred to in this paragraph~~
 14 ~~means the fiscal year that is two years before the fiscal year for~~
 15 ~~which an annual adjustment amount is calculated.~~

16 ~~(d) The Department of Finance shall notify the Legislature and~~
 17 ~~the Controller of the results of the determinations required under~~
 18 ~~subdivision (c) no later than 10 business days after the~~
 19 ~~determinations are final.~~

20 ~~(e) If the annual adjustment amount for a fiscal year is a~~
 21 ~~positive number, the Controller shall transfer that amount from~~
 22 ~~the General Fund to the MHS Fund on July 1 of that fiscal year.~~

23 ~~(f) If the annual adjustment amount for a fiscal year is a~~
 24 ~~negative number, the Controller shall suspend monthly transfers~~
 25 ~~to the MHS Fund for that fiscal year, as otherwise required by~~
 26 ~~paragraph (1) of subdivision (b), until the total amount of~~
 27 ~~suspended deposits for that fiscal year equals the amount of the~~
 28 ~~negative annual adjustment amount for that fiscal year.~~

29 SEC. 6. Sections 2 to 5, inclusive, of this act affect an
 30 initiative statute and shall take effect and become operative only
 31 when submitted to, and approved by, the voters of California,
 32 pursuant to subdivision (c) of Section 10 of Article II of the
 33 California Constitution.

34 SEC. 7. This act provides for a tax levy within the meaning of
 35 Article IV of the Constitution and shall go into immediate effect,
 36 except as otherwise provided in Section 6.